

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AUSTIN A. WILSON,

Plaintiff,

v.

STATE OF WASHINGTON, *et al.*,

Defendants.

Case No. C05-1900-MJP-JPD

REPORT AND RECOMMENDATION

In November 2005, plaintiff Austin Wilson presented to this Court for filing a civil rights complaint under 42 U.S.C. § 1983 together with an application to proceed with this action *in forma pauperis*. Plaintiff alleged in his complaint that each of the named defendants had deprived him of his liberty and his property without a warrant. Plaintiff identified the following individuals as defendants in this action: Christine Gregoire, Governor of the State of Washington; John Campbell, an Officer with the Washington Department of Corrections; George Appel, a Snohomish County Prosecuting Attorney; and, Gerald Knight and Linda Krese, Snohomish County Superior Court Judges. Plaintiff also identified two unnamed “arresting officers,” an unnamed “arresting city marshal,” and an “unknown D.O.C. officer” as defendants.


On January 23, 2006, plaintiff’s application for leave to proceed *in forma pauperis* was granted and his complaint was filed. (*See* Dkt. Nos. 5 and 6.) On the same date, this Court issued an

1 Order declining to serve plaintiff's complaint and granting him leave to amend. Plaintiff was advised  
2 therein that his complaint was defective because (1) his allegations were conclusory and therefore  
3 insufficient to state a cause of action under § 1983, (2) his claims lacked sufficient specificity to  
4 allow the Court to determine whether they were even cognizable under § 1983, and (3) three of the  
5 named defendants were entitled to immunity in this § 1983 action.

6 Plaintiff was granted thirty days within which to submit an amended complaint curing the  
7 specified deficiencies, and was advised that his failure to timely submit an amended complaint would  
8 result in a recommendation that this action be dismissed for failure to state a claim upon which relief  
9 may be granted. To date, plaintiff has filed no amended complaint.

10 When a complaint is frivolous, malicious, fails to state a claim on which relief may be  
11 granted, or seeks monetary relief against a defendant who is immune from such relief, the Court may  
12 dismiss an *in forma pauperis* complaint before service of process under 28 U.S.C. § 1915(e)(2)(B).  
13 Because plaintiff failed to amend his complaint to adequately allege a cause of action under § 1983,  
14 this Court recommends that this action be dismissed, without prejudice, pursuant to 28 U.S.C.  
15 § 1915(e)(2)(B). A proposed order accompanies this Report and Recommendation.

16 DATED this 15th day of March, 2006.

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19 JAMES P. DONOHUE  
20 United States Magistrate Judge  
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